

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

MATTEL, INC.,

Plaintiff,

- against -

JOHN MASTROIANNI D/B/A HOT  
WHEELS DEPOT,

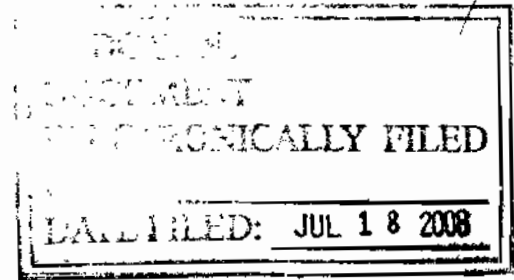
Defendant.

FINAL JUDGMENT AND PERMANENT INJUNCTION  
BY CONSENT

IT IS HEREBY STIPULATED and agreed by and between  
plaintiff Mattel, Inc. ("Mattel"), and defendant John  
Mastroianni d/b/a HOT WHEELS DEPOT ("Mastroianni"), through  
their undersigned attorneys, conditional upon the approval  
of the Court, that it is

ORDERED, ADJUDGED AND DECREED that Mastroianni  
and his agents, servants, and employees, and all those  
acting in concert with them, are hereby PERMANENTLY  
ENJOINED from:

(i) infringing Mattel's HOT WHEELS Trademark,  
which has received United States Registered Trademarks Nos.  
843,156, 884,563 and 1,810,905 (the "HOT WHEELS Trademark")  
in violation of 15 U.S.C. § 1114;



(ii) diluting Mattel's HOT WHEELS Trademark in violation of 15 U.S.C. § 1125(c);

(iii) infringing Mattel's copyright with respect to Mattel's HOT WHEELS FLAME LOGO and DESIGN Copyright which has received United States Certificate of Copyright Registration No. 445,024;


(iv) using or displaying the term HOT WHEELS or the design portion of the HOT WHEELS FLAME LOGO and DESIGN in connection with his offering for sale of goods or services, without the advance written consent of Mattel; and it is further

ORDERED, ADJUDGED and DECREED that the caption of this action is amended as set forth above to reflect the correct identity of defendant; and it is further

ORDERED, ADJUDGED and DECREED that claims of Mattel against Mastroianni in this action be, and hereby are, dismissed with prejudice, except that this Court shall retain jurisdiction to enforce this final judgment and permanent injunction.

Dated: New York, New York  
July \_\_, 2008

**JUL 18 2008**

  
U.S.D.J.  
**HON. GEORGE B. DANIELS**

Consent to Entry

The parties, through their undersigned counsel,  
heraby consent to the entry of the foregoing final judgment  
and permanent injunction, and to the Court's exercise of  
jurisdiction over them with respect to its enforcement.

Dated: New York, New York  
July 15, 2008

DUNNEGAN LLC

By William Dunnegan  
William Dunnegan (WD9316)  
Attorneys for Plaintiff  
Mattel, Inc.  
350 Fifth Avenue  
New York, New York 10118  
(212) 332-8300

JOHN G. POLI, III, P.C.

By John G. Poli, III  
John G. Poli, III, (JP0317)  
Attorneys for Defendant  
John Mastroianni  
200 Laurel Avenue  
Northport, New York 11768  
(631) 262-9696

**United States District Court  
Southern District of New York  
Office of the Clerk  
U.S. Courthouse  
500 Pearl Street, New York, N.Y. 10007-1213**

**Date:**

**In Re:**

-v-

**Case #:**

( )

Dear Litigant,

Enclosed is a copy of the judgment entered in your case.

Your attention is directed to Rule 4(a)(1) of the Federal Rules of Appellate Procedure, which requires that if you wish to appeal the judgment in your case, you must file a notice of appeal within 30 days of the date of entry of the judgment (60 days if the United States or an officer or agency of the United States is a party).

If you wish to appeal the judgment but for any reason you are unable to file your notice of appeal within the required time, you may make a motion for an extension of time in accordance with the provision of Fed. R. App. P. 4(a)(5). That rule requires you to show "excusable neglect" or "good cause" for your failure to file your notice of appeal within the time allowed. Any such motion must first be served upon the other parties and then filed with the Pro Se Office no later than 60 days from the date of entry of the judgment (90 days if the United States or an officer or agency of the United States is a party).

The enclosed Forms 1, 2 and 3 cover some common situations, and you may choose to use one of them if appropriate to your circumstances.

The Filing fee for a notice of appeal is \$5.00 and the appellate docketing fee is \$450.00 payable to the "Clerk of the Court, USDC, SDNY" by certified check, money order or cash. No personal checks are accepted.

**J. Michael McMahon, Clerk of Court**

by: \_\_\_\_\_

, Deputy Clerk

APPEAL FORMS

Docket Support Unit

Revised: April 9, 2006

United States District Court  
Southern District of New York  
Office of the Clerk  
U.S. Courthouse  
500 Pearl Street, New York, N.Y. 10007-1213

-V-	X X	<p><b>NOTICE OF APPEAL</b></p> <p>civ.                      (    )</p>
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Notice is hereby given that \_\_\_\_\_  
(party)  
hereby appeals to the United States Court of Appeals for the Second Circuit from the Judgment [describe it]

entered in this action on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_  
(day) (month) (year)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City, State and Zip Code)

Date: \_\_\_\_\_

(    ) \_\_\_\_\_  
(Telephone Number)

**Note:** You may use this form to take an appeal provided that it is received by the office of the Clerk of the District Court within 30 days of the date on which the judgment was entered (60 days if the United States or an officer or agency of the United States is a party).

**FORM 1**

**United States District Court  
Southern District of New York  
Office of the Clerk  
U.S. Courthouse  
500 Pearl Street, New York, N.Y. 10007-1213**

-----X  
-V-  
-----X

**MOTION FOR EXTENSION OF TIME  
TO FILE A NOTICE OF APPEAL**

civ. ( )

Pursuant to Fed. R. App. P. 4(a)(5), \_\_\_\_\_ respectfully  
(party)  
requests leave to file the within notice of appeal out of time. \_\_\_\_\_  
(party)  
desires to appeal the judgment in this action entered on \_\_\_\_\_ but failed to file a  
(day)  
notice of appeal within the required number of days because:

[Explain here the "excusable neglect" or "good cause" which led to your failure to file a notice of appeal within the required number of days.]

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City, State and Zip Code)

Date: \_\_\_\_\_

( ) \_\_\_\_\_  
(Telephone Number)

**Note:** You may use this form, together with a copy of Form 1, if you are seeking to appeal a judgment and did not file a copy of Form 1 within the required time. If you follow this procedure, these forms must be received in the office of the Clerk of the District Court no later than 60 days of the date which the judgment was entered (90 days if the United States or an officer or agency of the United States is a party).

**APPEAL FORMS**

Docket Support Unit

Revised: April 9, 2006

**FORM 2**

**United States District Court  
Southern District of New York  
Office of the Clerk  
U.S. Courthouse  
500 Pearl Street, New York, N.Y. 10007-1213**

-V-

**NOTICE OF APPEAL  
AND  
MOTION FOR EXTENSION OF TIME**

civ. ( )

1. Notice is hereby given that \_\_\_\_\_ hereby appeals to  
(party)  
the United States Court of Appeals for the Second Circuit from the judgment entered on \_\_\_\_\_.  
[Give a description of the judgment]

2. In the event that this form was not received in the Clerk's office within the required time  
\_\_\_\_\_ respectfully requests the court to grant an extension of time in  
(party)  
accordance with Fed. R. App. P. 4(a)(5).

a. In support of this request, \_\_\_\_\_ states that  
(party)  
this Court's judgment was received on \_\_\_\_\_ and that this form was mailed to the  
(date)  
court on \_\_\_\_\_  
(date)

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City, State and Zip Code)

Date: \_\_\_\_\_

( ) \_\_\_\_\_  
(Telephone Number)

**Note:** You may use this form if you are mailing your notice of appeal and are not sure the Clerk of the District Court will receive it within the 30 days of the date on which the judgment was entered (60 days if the United States or an officer or agency of the United States is a party).

**APPEAL FORMS**

Docket Support Unit

Revised: April 9, 2006

**FORM 3**

**United States District Court  
Southern District of New York  
Office of the Clerk  
U.S. Courthouse  
500 Pearl Street, New York, N.Y. 10007-1213**

-----X  
|  
-V-  
|  
-----X

**AFFIRMATION OF SERVICE**

civ. ( )

I, \_\_\_\_\_, declare under penalty of perjury that I have  
served a copy of the attached \_\_\_\_\_

upon \_\_\_\_\_

whose address is: \_\_\_\_\_

Date: \_\_\_\_\_  
New York, New York

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Address)

\_\_\_\_\_  
(City, State and Zip Code)

**APPEAL FORMS**

Docket Support Unit

Revised: April 9, 2006